

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PRIMO BEDDING COMPANY, INC.  
D/B/A PRIMO INTERNATIONAL.

07-CIV-9427

Plaintiff,

-against-

**AMENDED  
ANSWER**

JOHN TURANO and FRANK TURANO,

Defendants.  
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Defendants John K. Turano and Frank G. Turano. (“Defendant”), by their attorneys, Ettelman & Hochheiser, P.C., amending their answer to the Complaint (“Complaint”) of the Plaintiff, Primo Bedding Company, Inc. d/b/a Primo International (“Plaintiff”), allege as follows:

1. Defendant lacks knowledge or information sufficient to form a belief with respect to the allegations contained in Paragraph 1 of the Complaint.
2. Defendant admits the allegations contained in Paragraph 2 of the Complaint.
3. Defendant admits the allegations contained in Paragraphs 3 of the Complaint.
4. Defendant admits the allegations contained in Paragraph 4 of the Complaint.
5. Defendant admits the allegations contained in Paragraph 5 of the Complaint.
6. Defendant admits the allegations contained in Paragraph 6 of the Complaint, that Plaintiff and John Turano & Sons (“JTS”) entered into an agreement on or about April 28, 2005 and respectfully refers this court to the agreement for its terms and conditions.
7. Answering Paragraph 7 of the Complaint, Defendant asserts that there are no allegations of fact contained therein and therefore, no responsive pleading is required.
8. Defendant denies the allegations contained in Paragraph 8 of the Complaint, and refers this court to the agreement for its terms and conditions.

9. Defendant denies the allegations contained in Paragraphs 9 of the Complaint, except Defendant admits that it signed the document annexed as Exhibit B to the Complaint.

10. Answering Paragraph 10 of the Complaint, Defendant asserts that there are no allegations of fact contained therein and therefore, no responsive pleading is required.

11. Defendant denies the allegations contained in Paragraph 11 of the Complaint and respectfully refers this Court to the document for its terms and conditions.

12. Defendant admits the allegations contained in Paragraph 12 of the Complaint.

13. Defendant denies the allegations contained in Paragraphs 13 of the Complaint.

14. Defendant admits the allegations contained in Paragraph 14 of the Complaint.

15. Defendant admits the allegations contained in Paragraphs 15 of the Complaint.

16. Defendant denies the allegations contained in Paragraph 16 of the Complaint.

17. Defendant denies the allegations contained in Paragraphs 17 of the Complaint, except Defendant admits that Plaintiff sent Defendant a letter dated August 15, 2007, which document speaks for itself.

18. Defendant denies the allegations contained in Paragraph 18 of the Complaint, except Defendant admits that John Turano and Frank Turano have not paid Plaintiff for any alleged debts owed by JTS.

AS AND FOR A FIRST COUNT

19. Defendant repeats and realleges the responses to Paragraphs 1 through 18 as if fully set forth at length herein.

20. Defendant denies the allegations contained in Paragraph 20 of the Complaint.

21. Defendant denies the allegations contained in Paragraph 21 of the Complaint.

22. Defendant denies the allegations contained in Paragraph 22 of the Complaint.

23. Defendant denies the allegations contained in Paragraph 23 of the Complaint.

AS AND FOR A SECOND COUNT

24. Defendant repeats and realleges the responses to Paragraphs 1 through 23 as if fully set forth at length herein.

25. Answering Paragraph 25 of the Complaint, Defendant asserts that there are no allegations of fact contained therein and therefore, no responsive pleading is required.

26. Defendant denies the allegations contained in Paragraph 26 of the Complaint.

27. Defendant denies the allegations contained in Paragraph 27 of the Complaint.

AS AND FOR A THIRD COUNT

28. Defendant repeats and realleges the responses to Paragraphs 1 through 27 as if fully set forth at length herein.

29. Defendant denies the allegations contained in Paragraph 29 of the Complaint.

30. Defendant denies the allegations contained in Paragraph 30 of the Complaint.

31. Defendant denies the allegations contained in Paragraph 31 of the Complaint.

32. Defendant denies the allegations contained in Paragraph 32.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

33. Failure to state a claim upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

34. The personal guaranty is unenforceable.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

35. Plaintiff has failed to exhaust all legal remedies against the debtor.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

36. Lack of privity.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

37. Unclean hands.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

38. Statute of Frauds.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

39. Lack of Consideration.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

40. Lack of Personal Jurisdiction.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

41. Insufficiency of Service of Process.

WHEREFORE, defendant demands judgment dismissing the Complaint and for such other and further relief as to the Court may seem just and proper.

Dated: Garden City, New York  
December 19, 2007

ETTELMAN & HOCHHEISER, P.C.

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